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November 23, 2020

The Honorable Laura Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Letter Motion
CONSENT Surrender Date Adjournment Request

RE: United States v. Brandon Alvarez, 19 Cr. 23 (LTS)

Your Honor:

I am writing to ask the Court to postpone my client's surrender date one more time, from December 3, 2020 until late March, 3021.

I have consulted with AUSA Nicholas Chiuchiolo, Esq., and he has no objection to this request.

The reason is the continuing status of the pandemic, and my client's high risk medical conditions which have been discussed in prior applications for postponement of the surrender date and in a motion for compassionate release which I withdrew after being convinced that my client has to enter a facility before he can exhaust his administrative remedies under the CARES Act of 2020.

As the Court will remember, Mr. Alvarez suffers from fairly severe asthma which requires him to enter the hospital from time to time, and he has only a 70% of normal lung capacity due to an injury he suffered in an automobile accident in 2008. He also has a high body mass index (BMI) which fluctuates between 36.8 and 37.6 (anything above 30 is considered "obese", which is a significant risk factor for Covid-19 morbidity). The details were provided in the motion for

compassionate release (docket entry number 58).

As is clear from following the news, the pandemic is becoming more severe all over the country, including in areas where the Federal Correctional Institutions are mainly located. Mr. Alvarez has not been designated to a facility yet, but the likely ones would be in New Jersey (where he resides) or in Pennsylvania, because there are so many Federal Correctional facilities and contract facilities where defendants from our district are designated. As the Court may know, there has recently been a very severe outbreak of the coronavirus at Fort Dix¹, and most of rural Pennsylvania has had a relatively high level of disease.

Moreover, during the time Mr. Alvarez was in Florida getting the two warrants there vacated (which has now been accomplished) his grandmother who resided there died of the virus and his wife contracted it (here in their New Jersey residence). Because she has been through it Mr. Alvarez should be safe at home.

I am requesting a date in March in the hope that a vaccine will be available for “high-risk” persons such as Mr. Alvarez so that he can receive it prior to entering a Bureau of Prisons facility.

As I stated, the government has no objection to the request for a March surrender date.

Thank you so much.

The request is granted. The surrender date
is extended to March 25, 2021. DE# 73 resolved.
SO ORDERED.

11/23/2020

/s/ Laura Taylor Swain, USDJ

Sincerely,

/s/ Thomas H. Nooter

THOMAS H. NOOTER

Attorney for Defendant Alvarez

cc: AUSA Nicholas Chiuchiolo, Esq., by ECF and email

¹Cf.,

<https://www.burlingtoncountytimes.com/story/news/2020/11/19/fci-fort-dix-officials-deny-covid-outbreak-began-inmate-transfers/6344172002/>